

REMARKS

Claims 12-18 and 20-21 are pending in the present application. Claims 12 and 13 have been amended, and claim 14 has been cancelled without prejudice to or disclaimer of the subject matter contained therein. Support for the amendments can be found in the as-filed specification at paragraph [0023]. (Citation is to US application publication no. 2004/0022906). Reexamination of the application and reconsideration of the rejections and objections are respectfully requested in view of the above amendments and the following remarks, which follow the order set forth in the Office Action.

Substance of Interview

Applicant thanks Examiner Chawla for helpful and productive interviews on July 12, 2010 and October 29, 2010. Amendments to claims 12 and 13 were favorably discussed with reference to Lee. Applicant has amended claims 12 and 13 as discussed.

Rejections under 35 U.S.C. § 103

I. Lee and Yang

Claims 12-15, 17-18, and 20-21 were rejected under 35 U.S.C. §103 as being unpatentable over Lee, U.S. Patent No. 4,729,190 ("Lee") in view of Yang et al., U.S. Patent No. 6,165,529 ("Yang"). Applicant respectfully traverses the rejection. Applicant submits that amended claim 12 and amended claim 13 are not obvious in view of the combination of Lee and Yang because the combination fails to teach or reasonably suggest a coating composition comprising non-acidic co-monomers, as recited in amended claims 12 and 13.

Amended claims 12 and 13 are directed to a process for preserving post harvest produce comprising coating post harvest produce with a coating composition comprising an aqueous emulsion of polyvinylidene chloride copolymer, wherein said copolymer is formed exclusively of co-monomers selected from the group consisting of vinyl chloride, vinyl acetate, methyl methacrylate, propylene, ethylene, acrylates, styrenes, and combinations thereof.

Lee discloses a polymeric system comprising a blend of a polymeric carboxylic acid and ethoxylated nonionic surfactant. *See*, c. 2, ll. 58-60. The polymeric carboxylic acid is an acidic polymeric material with the acidity being provided by free carboxyl groups. *See*, c. 4, ll. 10-13. In fact, the polymeric carboxylic acids of Lee include those acidic polymeric

materials wherein a minimum of about 10% of the monomer units comprise carboxylic groups. Although the polymeric carboxylic acid may comprise a copolymer that includes non-acidic compounds, Lee discloses that the copolymer must also include monocarboxylic acids of the acrylic series to impart acidity to the polymeric material. *See*, c. 4, ll. 22-23. Lee further states "the presence of free carboxylic acid groups is essential in the association of a polymeric carboxylic acid and an ethoxylated nonionic surfactant in the solid state." C. 7, l. 68-c.8, l. 3. Thus, the polymeric carboxylic acid of Lee is acidic. In contrast, claims 12 and 13 have been amended to remove any acidic polymer from the exclusive list of recited polymers. Thus, the polymers exclusively recited in amended claims 12 and 13 are non-acidic polymers.

Yang discloses a coating for produce comprising polyvinyl alcohol, low molecular weight starch, and a surfactant. *See*, Abstract. However, there is no disclosure or suggestion in Yang to coat produce with a composition comprising a polyvinylidene chloride copolymer as recited in amended claims 12 and 13. In fact, the only disclosure in Yang of coating produce with a polymer is a discussion of the disadvantages associated with coating produce with a synthetic polymer based on sucrose esters of fatty acids. *See*, c. 1, l. 66 – c. 2, ll. 10. Thus, if anything, one of ordinary skill in the art would be directed away from using a synthetic polymer or copolymer to coat post-harvest produce, as required by amended claims 12 and 13.

Applicant submits that based on the teaching on Lee, one of ordinary skill in the art would have no reason to formulate a coating composition comprising a non-acidic polymer such as that recited in amended claims 12 and 13. Further, Yang provides no teaching or suggestion that overcomes the deficiency of Lee. Thus, Applicant submits that amended claims 12 and 13 are not obvious in view of the combination of Lee and Yang. As such, Applicant respectfully requests reconsideration and withdrawal of the instant rejection.

II. Lee, Yang, and Bice

Claim 16 was rejected as being unpatentable over Lee in view of Yang, further in view of Bice, U.S. Patent No. 3,674,510 ("Bice"). Applicant respectfully traverses the rejection. The addition of Bice for the disclosure of coating compositions incorporating antifungal agents does not overcome the deficiency of the combination of Lee and Yang discussed above because Bice provides no reason to replace the acidic polymeric material of Lee with the non-acidic polymers of claim 13. Accordingly, Applicant submits that claim 16

is not obvious in view of the combination of Lee, Yang, and Bice. As such, Applicant respectfully requests reconsideration and withdrawal of the instant rejection.

For the foregoing reasons, claims 12-18 and 20-21 are considered to be allowable. A Notice to this effect is respectfully requested. If any questions remain, the Examiner is invited to contact the undersigned at the number given below.

The Director is hereby authorized to charge any appropriate fees that may be required by this paper, and to credit any overpayment, to Deposit Account No. 23-1925.

Respectfully submitted,

BRINKS HOFER GILSON & LIONE

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